

REMARKS

The Office Action issued September 18, 2009 presents the examination of claims 1-6, 29, 30 and 40. Claims 7-28 and 31-39 are withdrawn from consideration following restriction.

Claims 2 and 3 are herein canceled, the subject matter of claim 3 being introduced into claim 1. Claims 35-38, directed to non-statutory "uses", are canceled. Many of the remaining claims are amended to make minor editorial amendments.

Restriction

Claims 7-28 and 31-39 stand withdrawn from consideration following restriction. Applicants submit that maintenance of the restriction requirement is erroneous. The Examiner has presented Pankaj WO '051 to assert lack of novelty of the claimed invention and thus lack of unity pursuant to PCT Rules 13.1 and 13.2.

Applicants note first that the divisions among the groups of claims relate mainly to separation of different species of the active ingredient carried by the micelles of the invention, rather than to differences among the embodiments of the micelles. (Note that most of the withdrawn claims are dependent upon examined claim 6.) As such, the proper way to examine the present claim set is by election of species practice, not restriction. Accordingly, rejoinder of claims 7-28 to the present application and treatment of these withdrawn claims under election of species practice are requested.

Withdrawn claims 31-34 and 39 represent methods of making or methods of using the invention of the elected composition claims. Accordingly, these claims are retained in the application for possible rejoinder pursuant to MPEP 821.04.

IDS

The copies of the references requested by the Examiner are provided together with another IDS filed with this response. Consideration of them and initialing of the form SB-08 to show consideration of the listed references are requested.

Objections to the claims

Claims 1 and 30 are objected to for minor informalities that are corrected by the editorial amendments above. Several other minor typographical errors noted in preparation of this paper are also corrected.

Rejection over prior art

Claims 1, 4-6, 29-30 and 40 are rejected under 35 USC § 102(b) as being anticipated by Brown WO '730 "as evidenced by" Biology Online Dictionary. Claims 1 and 2 are rejected under 35 USC § 102(b) as anticipated by Brown WO '730 "as evidenced by" Chong. These rejections are respectfully traversed. Reconsideration and withdrawal thereof are requested.

Claim 1 has been amended by incorporation of the features of claim 3, not included in the instant rejections. Accordingly, the invention as now claimed should be considered novel over the prior art of record and the standing prior art rejections should be withdrawn.

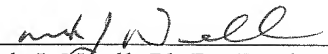
Applicants submit that the present claims recite subject matter patentable over the prior art of record. The favorable actions of allowance of claims 1, 4-6, 29, 30 and 40, and rejoinder of claims 7-28 under election of species practice, and of claims 31-34 and 39 pursuant to MPEP 821.04 are requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Mark J. Nuell, Ph.D. (Reg. No. 36,623) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

Dated: December 18, 2009

Respectfully submitted,

By 
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